31A-34-101. Title.

This chapter is known as the "Voluntary Health Insurance Purchasing Alliance Act."

Enacted by Chapter 143, 1996 General Session

31A-34-102. Purpose and intent -- Legislative findings.

(1) The purpose of this chapter is to improve the delivery of health care coverage for employer groups and individual applicants through the establishment of private competing purchasing entities to be known as health insurance purchasing alliances.

(2) The Legislature finds that the establishment of voluntary health insurance purchasing alliances will likely improve cost, quality, and access to health insurance services.

(3) To facilitate health insurance purchasing alliances and to ensure a fair allocation of risk among contracted insurers, the Legislature finds that cooperation among contracted insurers and health insurance purchasing alliances is necessary in the development of coordinated actuarial models and in the coordination of underwriting and marketing methodologies.

(4) This chapter establishes state supervision and control over the activities of health insurance purchasing alliances. By this chapter, the Legislature substitutes state regulation and control for competition among contracted insurers with respect to the coordinated development and implementation of actuarial models and underwriting and marketing methodologies used in conjunction with health insurance made available through a health insurance purchasing alliance licensed under this chapter. To the extent regulated and controlled under this chapter, alliances and contracted insurers are immune from actions that might arise under state or federal antitrust laws.

Enacted by Chapter 143, 1996 General Session

31A-34-103. Definitions.

As used in this chapter:

(1) "Alliance," "health insurance purchasing alliance," or "health insurance purchasing co-operative" means a nonrisk bearing nonprofit corporation or trust which makes health insurance available to its members and enrollees from multiple unaffiliated insurers through the use of coordinated actuarial models, coordinated underwriting, or coordinated marketing methodologies.

(2) "Board" means a health insurance purchasing alliance's board of directors or trustees.

(3) "Contracted insurer" means an insurer that contracts with a health insurance purchasing alliance to provide coverage to enrollees under a health benefit plan.

(4) "Enrollee" means an individual who is covered in a health benefit plan made available through a health insurance purchasing alliance and offered by a contracted insurer.

(5) "Health insurance purchasing association" means a nonprofit corporation organized pursuant to Section 31A-34-105 by employers for the purpose of jointly

purchasing health insurance.

(6) "Member" means a person who purchases health insurance through a health insurance purchasing alliance.

Enacted by Chapter 143, 1996 General Session

31A-34-104. Alliance -- Required license.

(1) A person shall be licensed as an alliance pursuant to this chapter to directly or indirectly make available or otherwise arrange for health insurance through multiple unaffiliated insurers through the use of coordinated actuarial models, coordinated underwriting, or coordinated marketing methodologies.

(2) (a) A person may not hold itself out as a health insurance purchasing alliance, purchasing alliance, health insurance purchasing cooperative, purchasing cooperative, or otherwise use a similar name unless licensed by the commissioner as an alliance.

(b) Notwithstanding Subsection (2)(a), a person may hold itself out as a voluntary health insurance purchasing association without being licensed by the commissioner as provided in Section 31A-34-105.

(3) To apply for licensure as an alliance, a person shall complete an application in a form designated by the commissioner and file it with the commissioner, together with the applicable filing fees determined by the commissioner under Section 63J-1-504.

Amended by Chapter 297, 2011 General Session

31A-34-105. Association requirements.

(1) A nonprofit corporation organized under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, may only hold itself out as a voluntary health insurance purchasing association if it:

(a) is organized by participating employers;

(b) is governed and controlled by participating employers;

(c) does not bear risk; and

(d) has filed with the commissioner:

(i) its articles of incorporation and bylaws; and

(ii) a completed form provided by the department.

(2) A voluntary health insurance purchasing association is not an alliance under this chapter, is not exempt from state or federal antitrust laws, and is therefore not subject to the regulation of this chapter, except as provided in this section.

Amended by Chapter 300, 2000 General Session

31A-34-106. Jurisdiction of the commissioner.

(1) The commissioner shall facilitate the creation and operation of alliances to ensure a fair allocation of risk among contracted insurers and proper state oversight and to provide consumer protection to members, enrollees, and the public through the active supervision and regulation of alliances with regard to:

(a) marketing through:

(i) standards for the development and approval of coordinated actuarial models and coordinated underwriting and marketing methodologies that promote efficiencies of scale while preserving market competition;

(ii) limitations on the cooperation permitted among contracted insurers, the circumstances under which such cooperation may occur, and the nature of the information that may be shared for purposes of developing coordinated actuarial models as well as coordinated underwriting and marketing methodologies;

(iii) reporting requirements; and

(iv) limitations on unfair marketing methods and practices;

(b) the financial stability of alliances and their contracted insurers regarding:

(i) financial solvency;

(ii) maintenance of trust accounts;

(iii) risk sharing methods; and

(iv) other matters relating to financial reporting and solvency; and

(c) the articles of incorporation and bylaws of alliances.

(2) An alliance shall submit proposed actuarial models and underwriting and marketing methodologies to the commissioner for review, modification, if necessary, and approval prior to use.

(3) Financial and performance examinations of an alliance shall be conducted in accordance with the provisions of Sections 31A-2-203, 31A-2-203.5, and 31A-2-204. The alliance shall reimburse the Insurance Department for the reasonable costs of such audits or examinations under Section 31A-2-205.

Enacted by Chapter 143, 1996 General Session

31A-34-107. Directors, trustees, and officers.

(1) To ensure representation of consumer interests, at least 25% of the board shall be enrollees, chosen under a plan proposed by the alliance and approved by the commissioner.

(2) Those who sit as directors or trustees on the board or as officers or principals of the corporation or trust shall be trustworthy and collectively have the competence and experience to carry out the activities of the alliance.

Amended by Chapter 297, 2011 General Session

31A-34-108. Powers of and restrictions on alliances.

(1) An alliance may only exercise the powers necessary to:

(a) make health insurance available to its members and enrollees from multiple unaffiliated insurers through the use of coordinated actuarial models, coordinated underwriting, or coordinated marketing methodologies; and

(b) subject to Subsection (3)(d), make available to its members other related insurance products and services, including dental, vision, and life insurance.

(2) In addition to the powers granted to a nonprofit corporation in Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, or to the powers of a trust under common law, the powers of an alliance include:

(a) setting reasonable fees and conditions for membership, which may vary by group size, to reflect reasonable and necessary costs incurred in administering the alliance;

(b) providing or contracting for premium collection services consistent with the requirements of Title 31A, Chapter 25; or

(c) contracting with qualified independent third parties for any service necessary to carry out the powers and duties authorized or required by this chapter.

(3) Notwithstanding Subsection (1), an alliance may not:

(a) purchase health care services;

(b) assume risk for the cost or provision of health services;

(c) contract with health care providers for the provision of health care services to enrollees; or

(d) condition alliance membership on the purchase or subscription of a product or service other than health insurance.

Amended by Chapter 300, 2000 General Session

31A-34-109. Operation of alliances.

An alliance shall:

(1) be operated by its board;

(2) contract with at least three insurers unaffiliated with each other to ensure that enrollees have a choice from among a reasonable number of competing insurers and types of health benefit plans. The commissioner may, by order, modify this requirement to allow an alliance to contract with only two unaffiliated insurers if the commissioner finds that modification of this requirement may enhance competitive cost, quality, or access in the pricing and delivery of health insurance and that such modification does not prejudice the interests of potential members or enrollees;

(3) develop standard enrollment procedures;

(4) prepare and distribute educational materials, plan descriptions, and comparison sheets describing contracted insurers and the health benefit plans available through the alliance to prospective members;

(5) receive, review, and act, as appropriate, on grievances by members and enrollees;

(6) establish administrative and accounting procedures for operating the alliance and for providing services to members and enrollees;

(7) prepare an annual report for the commissioner on the operations of the alliance no later than March 1, which shall include an accounting of all revenues received by the alliance, internal and independent audits, and other related information as the commissioner may require;

(8) establish procedures for billing and collecting premiums from members;

(9) establish procedures that allow an enrollee to transfer at least once each year to another health benefit plan that is comparable in benefits and is available through the alliance;

(10) deposit and maintain all money received and collected for the operation of the alliance in trust with the clear understanding that the alliance, its board, employees, and agents have a fiduciary duty to safeguard the money it receives, pursue funds that

are owed, pay outstanding obligations, and account fully to alliance members and the commissioner; and

(11) establish marketing standards to be used by contracted insurers.

Enacted by Chapter 143, 1996 General Session

31A-34-110. Contracts with member employers and contracted insurers.

(1) Contracts between an alliance and members shall provide that the alliance is the contract holder of the health benefit plan policy on behalf of members and enrollees.

(2) Contracts between an alliance and a contracted insurer shall specify how premiums will be transferred, what penalties and grace periods will be, and how examination costs will be allocated to contracted insurers.

(3) Subject only to Sections 31A-8-105.5 and 31A-8-501, and until July 1, 2004, health benefit plans offered exclusively in an alliance under this chapter may limit reimbursement to providers on the panel of a contracted insurer if the commissioner finds that the aggregate of alliance contracts available to its members provide a broad and substantial choice of providers, encompassing the vast majority of doctors and hospitals in the state.

Amended by Chapter 108, 2001 General Session

31A-34-111. Alliance evaluation.

Each alliance shall make a detailed annual report to the commissioner no later than March 1 containing at least the following:

(1) the progress achieved in assuring affordable health care coverage to eligible employees of members;

(2) the benefits, if any, to its members and enrollees of purchasing health insurance through the alliance; and

(3) changes in the law or procedure that would increase overall efficiency, reduce costs, or improve fairness.

Enacted by Chapter 143, 1996 General Session